Court No.3

Criminal Revision No. 253/2001
(Old No. 1546/1988)
Gurdeep Singh son of Suren Singh
Resident of Banskheri P.S. Bajpur
District Nainital …. Revisionist.

Vs.

State … Respondent.

Hon'ble Irshad Hussain, J.

This is a criminal revision against the judgment and order dated 6.10.1988 passed by II Additional District and Sessions Judge Nainital, whereby the judgment and order dated 7.10.1989 passed by Judicial Magistrate Kashipur in criminal case No. 45/1986 convicting and sentencing the revisionist under section 411 I.P.C. and to undergo R.I. for one year and a fine of Rs. 1000/- was imposed, was up-held and the appeal of the revisionist was dismissed.

(2). Heard Sri S.K. Mandal learned counsel for the revisionist and Sri Prabhakar Joshi learned A.G.A. for the respondent- State.

(3). The learned counsel for the revisionist submitted that since the revision is pressed only on the point of quantum of sentence the revision may be disposed of without waiting for the record of the lower court to be summoned. The learned counsel submitted that the occurrence took place on 9-9-1985 at 3 p.m. and that the recovered motor cycle was given in the Supurdagi of the informant/complainant Jagdish Rai (P.W.1) and therefore in the totality of the circumstances of the case the sentence may be modified to the period already undergone and the fine imposed by the learned Magistrate. The occurrence took place long ago and the revisionist had been confined to custody for quite some time and further that the stolen property namely the motor cycle had been restored to its owner Sri Jagdish Rai and further that the revisionist has no had antecedent and therefore in the interest of justice the revision need not be sent to jail to serve out the sentence as awarded to him. The ends of justice will be satisfied if the sentence is modified to the sentence of imprisonment already undergone by

the revisionist and to pay fine of Rs. 1000/- (one thousand) as was imposed by the learned Magistrate.

(4). In view of above the revision partly succeed. The conviction of the revisionist under section 411 I.P.C. is upheld. The sentence is however modified to the period of imprisonment already undergone and a fine of Rs. 1000/- as was imposed by the learned Magistrate. The revisionist shall deposit the fine within a period of one month from today. The recovered motor cycle belonged to Jagdish Rai and the same is released in his favour. The Judicial Magistrate, Kashipur shall report the compliance of the order in regard to deposit of fine of Rs. 1000/- by the revisionist within two months.

(Irshad Hussain, J.)

Dated: 16-9-2003

ISB